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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE HERNANDEZ,

Defendant and Appellant.

D067958

(Super. Ct. No. JCF34300)

APPEAL from a judgment of the Superior Court of Imperial County, Diane B. Altamirano, Judge. Affirmed.

Laura R. Sheppard, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance by Respondent.

Jose Hernandez entered a no contest plea to second degree burglary (Pen. Code,<sup>1</sup> § 459). He was promised probation, however he agreed that if he failed to appear at

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise specified.

sentencing he would be subject to a prison sentence. Hernandez did not appear for sentencing, and he was later arrested.

Hernandez was sentenced to the lower term of 16 months in prison, subject to various fines and fees. One of the fines imposed in the abstract of judgment was a \$10 fine pursuant to section 1202.5. The fine was not mentioned by the court at sentencing. Hernandez filed a timely notice of appeal.

Appellate counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) indicating that she has been unable to identify any reasonably arguable issues for reversal on appeal. Counsel asks this court to review the record for error as mandated by *Wende*. We offered Hernandez the opportunity to file his own brief on appeal, but he has not responded.

#### STATEMENT OF FACTS

On January 13, 2015, Hernandez entered a JC Penney's store, after hours, through an unlocked door. Hernandez entered with the intent to steal some clothing but was not able to take anything.

#### DISCUSSION

As we have noted, appellate counsel has filed a brief pursuant to *Wende, supra*, 25 Cal.3d 436, requesting this court to review the record for error. Pursuant to *Anders v. California* (1967) 386 U.S. 738 (*Anders*), counsel has identified the following issue:

Whether the \$10 fine imposed in the abstract pursuant to section 1202.5 should be stricken because it was discretionary and the court did not make an express finding that Hernandez had the ability to pay.

The issue was never raised in the trial court and is thus waived on appeal. (*People v. Trujillo* (2015) 60 Cal.4th 850.) Thus it does not raise a reasonably arguable issue.

We have reviewed the entire record and have not discovered any reasonably arguable issues for reversal on appeal. Competent counsel has represented Hernandez on this appeal.

#### DISPOSITION

The judgment is affirmed.

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HUFFMAN, Acting P.J.

WE CONCUR:

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AARON, J.

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PRAGER, J.\*

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\* Judge of the San Diego Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.